

**REMARKS**

In this Office Action, the Examiner first notes that the original Office Action of "September 10, 2002" (actually, July 5, 2005) has been vacated and replaced by the present Office Action of December 8, 2005. Applicants timely respond as follows:

The Examiner rejects claims 1, 3 and 5-9 under 35 U.S.C. §102(e) as being anticipated by the Sakagami publication (2005/0149224). Claims 2 and 4 have been indicated as being allowable but for their dependency upon a rejected independent claim.

This rejection is respectfully traversed. It is submitted that the Sakagami publication does not constitute prior art and therefore cannot be used to reject the claims in the present application.

Specifically, Sakagami's US publication date is July 7, 2005. The application stems from an international application filed October 30, 2002, which presumably was published on or around April 30, 2004. The April 30, 2004 date is the 102(a) date for the reference.

Applicants submit that an earlier date cannot be established for the Sakagami reference under §102(e). Specifically, since an International Application can only be used as a reference as of its international filing date if the resulting publication was in English, the October 30, 2002 filing date cannot be used as the reference date for Sakagami. In other words, since the original PCT publication was in Japanese, §102(e) applies only as of the actual filing date of the Sakagami application in the US, which appears to be August 27, 2004.

Accordingly, the earliest reference date of Sakagami appears to be the international publication date, on or around April 30, 2004. However, the present application enjoys an effective filing date of February 20, 2003, which is clearly prior to the earliest reference date which can be established for Sakagami.

Given the above, it does not appear to be necessary to address the rejections based on Sakagami, as this reference does not constitute prior art. Applicants submit that the current claims should be considered allowable over the prior art of record.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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WASHINGTON OFFICE

**23373**

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